

**STATE OF SOUTH CAROLINA**

**(Caption of Case)**

**Applicatin of Duke Energy Carolinas, LLC for  
Approval of Decision to Incur Nuclear Generation  
Pre-Construction Costs for the Lee Nuclear Station  
in Cherokee County**

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**COVER SHEET**

**DOCKET**

**NUMBER: 2007 - 440 - E**

(Please type or print)

**Submitted by:** Margaret M. Fox

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

**DOCKETING INFORMATION** (Check all that apply)

☐ **Emergency Relief demanded in petition**      ☐ **Request for item to be placed on Commission's Agenda expeditiously**

☐ **Other:** \_\_\_\_\_

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input checked="" type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input checked="" type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**Docket No. 2007-440-E**

IN RE:

Application of Duke Energy Carolinas, LLC for       )  
Approval of Decision to Incur Nuclear Generation       )  
Pre-Construction Costs for the Lee Nuclear       )  
Station in Cherokee County       )  
\_\_\_\_\_)

**REQUEST TO AMEND MOTION FOR A PROTECTIVE ORDER**

Westinghouse Electric Company, LLC and Stone & Webster, Inc. ("Westinghouse/Stone") respectfully request that their Motion for a Protective Order, which was filed with the South Carolina Public Service Commission ("the Commission") in the above-captioned proceeding on April 7, 2008, be amended to include additional materials, as described herein, for the reasons stated below. In support of its request to amend the Motion, Westinghouse/Stone submit as follows:

1. On March 14, 2008, Friends of the Earth ("FOE"), an Intervenor in the above-named proceeding, filed Interrogatories, Requests for Production and Request for Entry with the Commission, and served this request on Duke Energy Carolinas, LLC ("Duke"). The discovery request sought certain specified information, including all documents related to the estimated costs of "the Westinghouse AP1000 power reactor to be constructed" for Duke. By letter dated

March 25, 2008, pursuant to an obligation under a confidentiality agreement between and among Duke, Westinghouse, and Stone (“Confidentiality Agreement”), Duke provided notice to Westinghouse/Stone of its receipt of the discovery request, and of its belief that certain items of information belonging to Westinghouse/Stone and designated as the “Price Book” and “Transmittal Letter” were responsive to the discovery requests.

2. On April 4, 2008, Westinghouse/Stone filed a Notice of Limited Appearance in this docket to protect the disclosure of confidential and proprietary information in response to discovery requests in this proceeding.

3. On April 7, 2008, Westinghouse/Stone filed a Motion for a Protective Order and proposed Protective Order asking that the following materials not be produced in the above-captioned proceeding: (1) AP1000 Price Book for the W.S. Lee III Units #1 & #2, dated December 17, 2007 (“the Price Book”) and (2) Price Book Transmittal Letter from Daniel S. Lipman and David Barry to H. Brew Barron, dated December 14, 2007 (“the Transmittal Letter”). The Motion was made pursuant to Rule 26 of the South Carolina Rules of Civil Procedure, Commission Regulations, and other applicable law.

4. On April 17, 2008, the Commission heard oral arguments on various discovery motions filed in the docket, including Westinghouse/Stone’s Motion for a Protective Order covering the Price Book and Transmittal Letter.

5. On April 25, 2008, the Commission issued Order No. 2008-327, Ruling on Discovery Motions and Appointing Hearing Officer. In its Order, the Commission held in abeyance the Westinghouse/Stone Motion for a Protective Order. Order no. 2008-327 at 7. With respect to the Motion for Protective Order filed by Duke, and the Motion to Compel filed by Friends of the Earth (“FOE”), the Commission directed Duke to provide, within seven (7) days of

its receipt of the Order, a detailed description of those documents responsive to FOE's Requests No. 3, 4, 5, 8, 12, and 13, that Duke claimed were confidential, commercially sensitive, or trade secret information, and which Duke has withheld from production. Order No. 2008-327 at 6.

6. On April 30, 2008, counsel for Duke sent a letter to counsel for Westinghouse/Stone, putting Westinghouse/Stone on notice of additional documents that were created by Westinghouse/Stone that were in Duke's possession and that Duke intended to identify in response to FOE's discovery requests and the Commission's directive in Order No. 2008-327. On May 1, 2008, Duke filed its detailed descriptive list of documents with the Commission.

7. The additional Westinghouse/Stone documents are described in Duke's list of confidential information and are designated by Bates stamp numbers as follows:

- (a) Letter from Pete Harden of Westinghouse to Ken Rice, Senior Sourcing Specialist, of Duke Energy Corporation. Re: revised offer for services related to AP1000 Plan (Attachment to June 4 memo to file). [DUKE000155-157].
- (b) Westinghouse Phase I Offer for AP1000 Plan (Attachment to June 4 memo to file). [DUKE000158-165].
- (c) Letter from Charles Zappile of Shaw, Stone & Webster to Ken Rice, Senior Sourcing Specialist, of Duke Energy Corp. re: Proposal for Phase I of Lee Nuclear Plant. (Attachment to June 4 memo to file). [DUKE000166-169].
- (d) Letter from Peter Harden of Westinghouse to Ken Rice, Senior Sourcing Specialist, of Duke Energy Corp. re: Revised offer for Training Development. (Attachment to June 4 memo to file). [DUKE000170-173].
- (e) AP1000 Project Cost Book. (Attachment to June 4 memo to file). [DUKE000178-198].

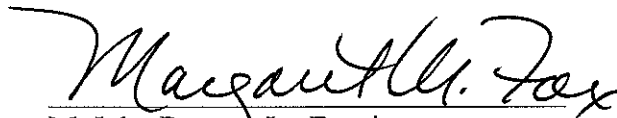
8. The referenced documents contain information very similar in nature to the information contained in the Price Book and Transmittal Letter. Thus, the referenced documents are confidential, commercially-sensitive, trade secret information that should not be disclosed in this proceeding.

9. Additionally, while the Price Book and Transmittal Letter are not relevant or necessary to this case for the reasons stated in the Westinghouse/Stone Motion for a Protective Order and in arguments before the Commission, these additional documents are even less relevant and necessary to this case because they relate to a previous, outdated offer for services by Westinghouse/Stone to Duke.

WHEREFORE, Westinghouse and Stone & Webster respectfully request that the Commission permit the amendment of the Westinghouse/Stone Motion for a Protective Order, which was held in abeyance by Commission Order No. 2008-327, to include the additional materials described herein, as identified by Duke in its filing with the Commission dated May 1, 2008.

Respectfully submitted,

McNair Law Firm, P.A.  
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(803) 799-9800

A handwritten signature in cursive script, reading "Margaret M. Fox". The signature is written in dark ink and is positioned above the printed names of the attorneys.

M. John Bowen, Jr., Esquire  
Margaret M. Fox, Esquire  
Sue-Ann Gerald Shannon, Esquire

ATTORNEYS FOR WESTINGHOUSE ELECTRIC  
COMPANY, LLC, and STONE & WEBSTER, INC.

Columbia, South Carolina  
May 12, 2008

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

**Docket No. 2007-440-E**

Application of Duke Energy Carolinas, LLC for )  
Approval of Decision to Incur Nuclear Generation )  
Pre-Construction Costs for the Lee Nuclear )  
Station in Cherokee County )

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**CERTIFICATE  
OF SERVICE**

This is to certify that I, Rebecca W. Martin, an employee with the McNair Law Firm, P. A., have this date served one (1) copy of the attached Request to Amend Motion for a Protective Order in the above-referenced matter to the persons named below by causing said copies to be deposited with the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below.


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May 12, 2008  
Columbia, South Carolina